IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Writ Petition No. 778 (M/S) of 2006

1- Bishambar Lal

2- Satish Kumar

3- Bhoj Raj

4- Tilak Raj

All sons of Karan Chand,

5- Vinay Kumar

6- Nitin Kumar (both minor) s/o late Surendra Kumar.

Through month and natural guardian,

Smt. Anita Rani W/o Late Surendra Kumar

All R/o Village-Simla Pistaur, Pargana-Rudrapur,

Tehsil-Kichha, District Udham Singh Nagar….petitioners

Versus

1. Zila Up Sanchalak Chakbandi, Udham Singh Nagar, District Udham Singh Nagar.
2. Dharam Chand S/o Shri Ram Chand,
3. Raj Kumar s/o Shri Dharam Chand,

Both R/o Village-Kailashpur, Tehsil-Gadarpur,

District Udham Singh Nagar …Respondents

Sri Lok Pal Singh, learned counsel for the petitioner

Standing Counsel for the respondents no.1 & 2.

Dated 22.6.2006

Hon'ble Rajesh Tandon,J.

By the present writ petition the petitioner ahs prayed for a writ of certiorari, quashing the order dated 7.6.2006 by which the interim stay order dated 1.5.2006 has been discontinued.

Briefly stated, according to the case of petitioner the parties entered into a compromise on 2.7.1996, thereafter the respondents No.2 and 3 preferred an appeal before the consolidation Officer. The appeal was decided by the order dated 13.4.2006. The petitioner has preferred a revision, and the revisional Court has granted the stay order on 11.5.2006 to the following effect:-

विद्वान अधिवक्त उपस्थित हैं उन्होंने अवगत कराया कि यद्यपि पत्रावली दि0 31.5.06 के लिए नियत हैं किन्तु यदि अधीनस्थ न्यायालय के आदेप्र को स्थिगित नही किया गया तो जमीन खुर्द/बुर्द कर दी जाएगी। पत्रावली को अध्ययन किया न्यायाहित में अगली निर्धारित तिथि 31.5.06 तक अधीनस्थ न्यायालय का आदेप्र दि0 13.4.06 स्थगित किया जाता है। पत्रावली 31.5.06 को प्रस्तुत हो।

Grievance of the petitioner is that without any rhyme and rearm, the order has not been extended. The orders was passed to the following effect:-

उभय पक्ष के विद्वान अधिवक्ता उपस्थित है। दि0 11.5.06 को निगरानी प्रा0पत्र के साथ सगिन आदेप्र चाहा गया था। उस तिथि को निगानीकर्ता पक्ष ही उपस्थित था। अन्तरित आदेप्र के रूप में दि0 31.5.06 तक के लिए सगिन आदेप्र दिया गया था। उस समय इस न्यायालय के समक्ष अधीनस्थ न्यायालय की पत्रावली नही थी।

आज उभय पक्ष के तर्को और अधीनस्थ न्यायालय की पत्रावली के अध्ययन से यह स्पप्रट होता है कि सगिन आदेप्र दि0 11.5.06 को जारी रखने/बढ़ाने का कोई विधिक औचित्य नहीं है। उभय पक्ष की सहमति से दि0 28.6.06 बहस हेतु नियत की जाती है जिससे पत्रावली का भीघ्र निस्तारण हो सके।

The need of society is that there should be justice oriented approach and the appeal should not be rejected only on the ground of technicalities. The Apex Court held in (2001) 8 SCC 151, M.S. Grewal Vs. Deep Chand Sood as under:-

"Law courts will loss their efficacy if they cannot possibly respond to the need of the society-technicalities there might be many but the justice- oriented approach ought not to be thwarted on the bias of such technicality since technicality cannot and ought not to out weight the course of justice"

Heard the parties, the ends of justice requires that the revision is directed to be decided within a period of one month and during that period parties are directed to maintain status-quo.

Writ Petition is disposed of. No order as to costs.

Dated 22.6.2006 (Rajesh Tandon, J.)